

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT’S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION “SUMMARY ORDER”). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals
for the Second Circuit, held at the Daniel Patrick Moynihan
United States Courthouse, 500 Pearl Street, in the City of
New York, on the 31st day of March, two thousand eleven.

PRESENT: DENNIS JACOBS,
Chief Judge,
GUIDO CALABRESI,
RAYMOND J. LOHIER, Jr.,
Circuit Judges.

- - - - -X
COLETTE D. RAGIN,
Plaintiff-Appellant,

-v.- 10-1741-cv

EAST RAMAPO CENTRAL SCHOOL DISTRICT,
Defendant-Appellee.
- - - - -X

FOR APPELLANT: Michael H. Sussman, Sussman & Watkins,
Goshen, New York.
FOR APPELLEES: Gregg T. Johnson, Lemire Johnson, LLC,
Malta, New York.

1 Appeal from a judgment of the United States District
2 Court for the Southern District of New York (Gardephe, J.).
3

4 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED**
5 **AND DECREED** that the judgment of the district court be
6 **AFFIRMED.**
7

8 Plaintiff-Appellant Colette Ragin ("Ragin") appeals
9 from the district court's grant of summary judgment in favor
10 of Defendant-Appellee East Ramapo Central School District
11 (the "School District"), and dismissal of her employment
12 discrimination action. We assume the parties' familiarity
13 with the underlying facts, the procedural history, and the
14 issues presented for review.
15

16 We review an order granting summary judgment de novo
17 and ask whether the district court properly concluded that
18 there were no genuine issues of material fact and that the
19 moving party was entitled to judgment as a matter of law.
20 See ReliaStar Life Ins. Co. v. Home Depot U.S.A., Inc., 570
21 F.3d 513, 517 (2d Cir. 2009). In determining whether there
22 are genuine issues of material fact, we are "required to
23 resolve all ambiguities and draw all permissible factual
24 inferences in favor of the party against whom summary
25 judgment is sought," Terry v. Ashcroft, 336 F.3d 128, 137
26 (2d Cir. 2003) (quotation marks omitted), but "conclusory
27 statements or mere allegations [are] not sufficient to
28 defeat a summary judgment motion." Davis v. New York, 316
29 F.3d 93, 100 (2d Cir. 2002).
30

31 Even assuming Ragin suffered an adverse employment
32 action, we agree with the district court that Ragin failed
33 to offer evidence that could allow a reasonable jury to find
34 that her termination was the result of racial animus on the
35 part of the School District. "It is well-settled that an
36 inference of discriminatory intent may be derived from a
37 variety of circumstances, including, but not limited
38 to: . . . 'the employer's criticism of the plaintiff's
39 performance in ethnically degrading terms; or its invidious
40 comments about others in the employee's protected group; or
41 the more favorable treatment of employees not in the
42 protected group; or the sequence of events leading to the
43 plaintiff's discharge.'" Leibowitz v. Cornell Univ., 584
44 F.3d 487, 502 (2d Cir. 2009) (quoting Chambers v. TRM Copy
45 Ctrs. Corp., 43 F.3d 29, 37 (2d Cir. 1994) (internal
46 citations omitted)).
47

1 The discriminatory comments allegedly were made by
2 Principal Neil Kaplicer ("Kaplicer"); however, Kaplicer
3 retired more than five months before the School District
4 decided to terminate Ragin, and nothing in the record
5 suggests that Kaplicer's comments influenced the decision
6 when it was later made. See Tomassi v. Insignia Fin. Group,
7 Inc., 478 F.3d 111, 116 (2d Cir. 2007) ("The relevance of
8 discrimination-related remarks does not depend on their
9 offensiveness, but rather on their tendency to show that the
10 decision-maker was motivated by assumptions or attitudes
11 relating to the protected class."); McLee v. Chrysler Corp.,
12 109 F.3d 130, 137 (2d Cir. 1997) ("[T]here is no evidence in
13 the record from which it could rationally be inferred that
14 [plaintiff's] allegations of discrimination . . . played any
15 part in [the decision-maker's] decision to fire
16 [plaintiff].").

17
18 The legitimate, non-discriminatory reasons given by the
19 School District to justify Ragin's termination included:
20 Ragin's tardiness and frequent absences; her refusal to sign
21 a memorandum setting out her job responsibilities; her
22 unprofessional behavior; her failure to complete a
23 substantial amount of her assigned work, including her
24 teacher evaluations; and her performance in the areas of
25 scheduling, budgets, and communications with the Central
26 Administrative offices. Accordingly, because the ERCSD
27 provided legitimate, non-discriminatory reasons for
28 terminating Ragin, and because Ragin failed to demonstrate
29 that these reasons were pretextual, Ragin's claims fail.
30 See McPherson v. New York City Dept. of Educ., 457 F.3d 211,
31 216 (2d Cir. 2006) ("We are interested in what 'motivated
32 the employer'" (quoting United States Postal Service
33 Bd. of Governors v. Aikens, 460 U.S. 711, 716 (1983)
34 (internal quotations omitted))).

35
36 We have considered all of Ragin's remaining arguments,
37 and in particular her claims of unlawful retaliation and
38 hostile work environment, and find them to be without merit.
39 For the foregoing reasons, the judgment of the district
40 court is hereby **AFFIRMED**.

41
42 FOR THE COURT:
43 CATHERINE O'HAGAN WOLFE, CLERK
44